

General Permit for Diversion of Water for Consumptive Use

Non-filing Categories

Pump and Recharge Geoexchange System
Non-Contact Cooling – Surface Waters
Hydrostatic Testing of Pipes and Tanks
Long Island Sound

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Section 1. Authority

This general permit is issued under the authority of sections 22a-6 and 22a-378a of the General Statutes.

Section 2. Definitions

As used in this general permit, the following definitions shall apply:

“Aquifer” means a geologic formation, group of formations or part of a formation that contains sufficient saturated, permeable materials to yield significant quantities of water to wells and springs.

“Authorized diversion” means a diversion maintained under the authority of this general permit.

“Best management practice” means a practice, procedure, activity, structure or facility designed to prevent or minimize pollution or other environmental damage or to maintain or enhance existing environmental quality. Best management practices include, but are not limited to: erosion and sedimentation controls; restrictions on land use or development; construction setbacks from wetlands or watercourses; proper disposal of waste materials; procedures for equipment maintenance to prevent fuel spillage; construction methods to prevent flooding or disturbance of wetlands and watercourses; procedures for maintaining continuous stream flows; confining construction that must take place in watercourses to times when water flows are low and fish and wildlife will not be adversely affected.

“CFR” means Code of Federal Regulations.

“Coastal resources” means coastal resources as defined in section 22a-93 of the General Statutes.

“Commissioner” means commissioner as defined by section 22a-367 of the General Statutes.

“Consumptive use” means any withdrawal from or removal of the waters of the state, including but not limited to any withdrawal or removal for public or private water supply, industrial use, irrigation, hydropower generation, flood management, water quality management, recreation, landscaping ponds and decorative water fountains, or any other purpose; but does not mean the channelizing, damming, collecting, piping, culverting, filling, relocating, or dredging of a watercourse or the detaining of stormwater for the purpose of stormwater management.

“Cumulative impact” means the impact of a proposed diversion together with the impact of any other diversion whether such other diversion is exempt from permitting under section

22a-377 of the General Statutes or section 22a-377(b)-1 of the Regulations of Connecticut State Agencies, or registered with or permitted by the commissioner pursuant to section 22a-368 of the General Statutes.

“Diversion” means diversion as defined in section 22a-367 of the General Statutes.

“Divert” means divert as defined in section 22a-367 of the General Statutes.

“Eligible diversion” means a diversion described in Section 3(a) which meets all the conditions for authorization listed in Section 3(b) of this general permit.

“Endangered species” means endangered species as defined in section 26-304 of the General Statutes.

“Erosion and sedimentation control measure” means a specific design for vegetative, non-structural or structural means for controlling erosion and sedimentation described in the *Connecticut Guidelines for Soil Erosion and Sediment Control* published by the Connecticut Council on Soil and Water Conservation pursuant to section 22a-328 of the General Statutes.

“Excess material” means material such as soil, sand, gravel, stone, or debris produced by the construction of an authorized diversion which material is not utilized in the construction of said diversion.

“Fill” means any material that is used to raise the level of the ground surface, whether such surface is above, at, or below the water table, and includes but is not limited to consolidated material such as concrete and unconsolidated material such as sand, gravel and stone.

“Habitat essential to such species” means habitat as defined in section 26-304 of the General Statutes.

“Individual permit” means a permit issued by the commissioner to a specific permittee pursuant to section 22a-368(b) of the General Statutes.

“Instantaneous flow” means the volume of water that would occur in waters at a given point at any given moment;

“Material” means material as defined in section 22a-38 of the General Statutes.

“Municipality” means municipality as defined in section 22a-367 of the General Statutes.

“Permittee” means any person who or municipality which is authorized by this general permit.

“Person” means person as defined in section 22a-367 of the General Statutes.

“Pollution” means pollution as defined in section 22a-423 of the General Statutes.

“Pump and Recharge Geoexchange System” means a system whereby ground water is withdrawn, utilized by a heat pump, and then returned to the same aquifer.

“Regulated activity” means a diversion of water regulated by the commissioner under section 22a-368 of the General Statutes.

“Request for authorization” means a request for authorization submitted under Section 4 of this general permit.

“Solid waste” means solid waste as defined in section 22a-207 of the General Statutes.

“Species of special concern” means species of special concern as defined in section 26-304 of the General Statutes.

“Structure” means any man-made object constructed or placed above, in or on the ground or underwater.

“Surface water” means that portions of waters, as the term “waters” is defined in section 22a-367 of the General Statutes, located above the ground surface.

“Threaten the continued existence” means threaten the continued existence as defined in section 26-304 of the General Statutes.

“Threatened species” means threatened species as defined in section 26-304 of the General Statutes.

“Watercourses” means watercourses as defined in section 22a-38 of the General Statutes.

“Waters” means waters as defined in section 22a-367 of the General Statutes.

“Well” means a hole dug or drilled into the earth from which water may be withdrawn.

“Wetlands” means wetlands as defined in section 22a-38 of the General Statutes.

Section 3. Authorization under this General Permit

(a) *Eligible Diversions*

The following diversions are authorized by this general permit, provided the conditions of Section 3(b) of this general permit have been satisfied:

(1) Pump and Recharge Geoexchange System

Withdrawal of ground water to supply a Pump and Recharge Geoexchange System that is discharged back into the same aquifer within 250 feet of the withdrawal point provided that, if necessary, all other state permits, licenses or authorization as may be required for the withdrawal, discharge, and all

associated infrastructure, have been obtained. Such permits may include, but not be limited to, those required within sections 22a-36 through 22a-45 (Inland Wetlands and Watercourses), 22a-416 through 22a-438 (Wastewater Discharge) of the Connecticut General Statutes, and section 25-128-33 of the Regulations of Connecticut State Agencies (Well Drilling).

(2) Non-Contact Cooling – Surface Waters

Withdrawal of surface water for a non-contact cooling system that is discharged back into the same surface water source within 500 feet of the withdrawal point, provided that, if necessary, all other state permits, licenses or authorization as may be required for the withdrawal, discharge, and all associated infrastructure, have been obtained. Such permits may include, but not be limited to those required within sections 22a-36 through 22a-45 (Inland Wetlands and Watercourses), 22a-416 through 22a-438 (Wastewater Discharge) of the General Statutes. This category shall not be used for withdrawals from Long Island Sound made in conjunction with an energy production facility.

(3) Hydrostatic Testing

Withdrawal of water from a surface water to fill a pipe, tank or other structure for the purpose of testing the structural integrity of such pipe or tank provided that, 1) the rate of such withdrawal does not exceed five percent of the instantaneous flow of that surface water, and 2) if necessary, all other state permits, licenses or authorization as may be required for the withdrawal, discharge, and all associated infrastructure, have been obtained. Such permits may include, but not be limited to, those required within sections 22a-416 through 22a-438 (Wastewater Discharge), and 22a-359 through 22a-363f (Structures, Dredging and Fill) of the Connecticut General Statutes.

(4) Long Island Sound

Withdrawal of less than 2 million gallons of surface water per day from the Long Island Sound, or Fishers Island Sound excluding all tributary tidal rivers, tidal ponds, coves, or harbors, excepting New Haven Harbor, provided that, if necessary, all other state permits, licenses or authorization as may be required for the withdrawal, discharge, and all associated infrastructure, have been obtained. Such permits may include, but not be limited to, those required within sections 22a-416 through 22a-438 (Wastewater Discharge), and 22a-359 through 22a-363f (Structures, Dredging and Fill) of the Connecticut General Statutes. This category shall not be used for withdrawals from Long Island Sound made in conjunction with an energy production facility.

(b) Requirements for Authorization

This general permit authorizes a diversion listed in Section 3(a) of this general permit, provided:

(1) Request for Authorization

Any diversion as described in Section 3(a) of this general permit, need not submit a request for authorization or any permit fee, but must comply with all other conditions of this general permit.

(2) Water Resources

Such diversion causes and will cause only minimal environmental effects when conducted separately and would cause only minimal cumulative environmental effects, on the environment, including without limitation on wetlands and watercourses and fish and wildlife habitat.

(3) Water Quality Standards

Such diversion does not and will not adversely affect existing or designated uses of the waters of the state as such uses are described in Connecticut's *Water Quality Standards* adopted pursuant to section 22a-426 of the General Statutes.

(4) Water Supply Wells

Such diversion does not and will not adversely affect the production capacity, yield, or water quality of any water supply well or any other source of public or private water supply.

(5) Coastal Area Management

Such activity is consistent with all applicable goals and policies in Section 22a-92 of the General Statutes and will not cause adverse impacts to coastal resources as defined in Section 22a-93 of the General Statutes.

(6) Endangered and Threatened Species

Such diversion does not threaten the continued existence of any species listed pursuant to section 26-306 of the General Statutes as endangered, threatened, or species of special concern and will not result in the destruction or adverse modification of habitat essential to such species.

(7) Flood Hazards

Such diversion does not and will not cause or contribute to flooding or flood hazards, permanently obstruct a floodway, or interfere with federal, state or local flood management efforts, and does and will comply with 44 CFR Chapter 1, Parts 59 through 79.

(8) Flood Management Certification by State Agency

If such diversion is maintained, proposed, or funded by a Connecticut state agency, such agency has complied with sections 25-68b through 25-68h of the General Statutes, and sections 25-68h-1 through 25-68h-3 of the Regulations of Connecticut State Agencies.

(9) Other Uses

Such diversion does not and will not adversely affect an existing or potential use of water for public water supply, hydropower, water-based recreation, industry, agriculture, or waste assimilation and will not significantly affect long-range water resource management.

(10) Conservation and Preservation Restrictions

Such activity, if located within a conservation or preservation restriction area, complies with section 47-42d of the Connecticut General Statutes, by providing the following documentation to the commissioner: proof of written notice to the holder of such restriction of the proposed activity's registration pursuant to this general permit or a letter from the holder of such restriction verifying that the proposed activity is in compliance with the terms of the restriction.

(c) ***Geographic Area***

This general permit shall apply throughout the State of Connecticut.

(d) ***Effective Date and Expiration Date of this General Permit***

This general permit shall be effective on the date it is issued and shall expire on that date ten (10) years thereafter.

(e) ***Effective Date of Authorization***

A diversion is authorized under this general permit upon issuance of this general permit.

(f) ***Diversions Not Authorized by this General Permit***

A diversion may not lawfully be maintained unless it is authorized under this general permit, properly registered under section 22a-368(a) of the General Statutes, authorized by an individual permit, or exempted under section 22a-377 of the General Statutes or section 22a-377(b)-1 of the Regulations of Connecticut State Agencies. Please note that diversion of water for non-consumptive purposes, and consumptive diversion of 50,000 gallons or less during any 24-hour period are not authorized by this general permit.

(g) ***Transition to and from an Individual Permit***

No person shall operate or conduct an activity authorized by both an individual permit and this general permit. The requirements for transitioning authorization are as follows:

- (1) ***Transition from an Individual Permit to Authorization under this General Permit.*** If an activity meets the requirements of authorization of this general permit and such operation or activity is presently authorized by an individual permit, the entity to whom any such individual permit has been issued ("the

permittee”) may surrender the right to operate or conduct any activity under such individual permit. The permittee shall acknowledge its intention to surrender its permit in writing to the commissioner. However, any such surrender shall not take effect, and such permittee’s individual permit shall continue to apply, until the date that the commissioner issues an authorization for such operation or activity under this general permit.

- (2) *Transition from Authorization under this General Permit to an Individual Permit.* If the commissioner approves a request for authorization under this general permit and subsequently issues an individual permit for the same activity, then on the date any such individual permit is issued by the commissioner, the authorization issued under this general permit shall automatically expire.

Section 4. Conditions of This General Permit

The permittee shall at all times continue to meet the requirements for authorization set forth in Section 3 of this general permit. In addition, a permittee shall assure that activities authorized by this general permit are conducted in accordance with the following conditions:

(a) Operating Conditions

(1) Diversion Metering

Unless otherwise specified, the permittee shall install a flow meter(s) to measure the total volume of diversion authorized herein, and shall for the duration of the authorization continuously operate and maintain such meter(s) in good working order. In the event of meter malfunction or breakage, the permittee shall repair or replace such meter within 72 hours.

(2) Meter Calibration

The permittee shall test each meter referenced in Section 4(a)(1) of this general permit every other year, and calibrate to within two percent accuracy as shown through a post-calibration test. The permittee shall maintain a record of the accuracy and calibration tests along with supporting documentation and certifications. The permittee shall make a copy of said records available to the commissioner or the commissioner’s designee immediately upon request.

(3) Inspections

The permittee shall conduct routine inspections of all equipment associated with the diversions authorized by this general permit. Inspections shall be conducted as necessary to insure proper operation of all equipment. A log shall be maintained on-site documenting the date of inspection, inspector’s name, verification of operation or critical equipment, and a summary of any work or change in equipment associated with the diversions authorized by this general permit.

(4) Daily Diversion Recording

The permittee shall record on a daily basis the quantity of water that is diverted and metered, pursuant to this general permit. Water diversions shall be recorded and reported in gallons or thousands of gallons. The daily record shall include all other pertinent data such as but not limited to the volume of water diverted, exact hours of operation for all non-water company diverters, *typical* hours of operation for all water company diverters, the time each day that the meter was read and recorded, and denotation and explanation of any instances in which the diversion of water exceeded the authorized withdrawal limitation(s) specified in this permit.

(5) Pollution Prevention / Best Management Practices

The permittee shall not cause or allow the authorized diversion, including any construction associated therewith, to result in pollution or other environmental damage and shall employ best management practices to prevent such damage. The permittee shall, in addition to employing any other best management practices necessary to prevent such damage, do the following:

(A) Controlling Erosion

The permittee shall install and maintain, in optimal condition, erosion and sedimentation controls to prevent erosion and discharge of material into any waters of the state, including wetlands, as a result of such diversion or any construction associated therewith. Such controls shall be installed and maintained in conformity with the *Connecticut Guidelines for Soil Erosion and Sediment Control*, as amended, published by the Connecticut Council on Soil and Water Conservation pursuant to section 22a-328 of the General Statutes.

(B) Disposing of Excess Material Properly

All excess material and solid waste generated during any construction associated with such diversion shall be disposed of in accordance with applicable federal, state and local law.

(6) Restrictions

The commissioner shall have the right to restrict the diversion authorized in this general permit at any time the commissioner determines:

- (A) a declared local, regional or state-wide drought advisory, watch, warning or emergency necessitates curtailment of non-essential water uses, or
- (B) the continuation of the diversion would have an adverse effect on wetlands and watercourses, water quality, fisheries resources, aquatic habitat, or any public or private water supply well.

(b) *Reporting and Record Keeping Requirements*

Except for any report required under Section 4(c) of this general permit, all information required under this general permit shall be retained by the permittee and be readily available on request.

- (1) The permittee shall maintain a copy of this general permit on site at all times.
- (2) The permittee shall retain copies of all records and reports required by this general permit, and records of all data used to compile these reports for a period of at least fifteen years from the date such data was generated or report was created whichever is later.

(c) *Recording and Reporting Violations*

Immediately upon learning of a violation of a condition of this general permit or of any of the requirements for authorization of Section 3(b) of this general permit, the permittee shall immediately take all reasonable action to determine the cause of such violation, correct such violation and mitigate its results, prevent further such violation, and report in writing such violation and such corrective action to the commissioner within five (5) calendar days of the permittee learning of such violation. Such report shall include but not be limited to the following information:

- (1) the provision(s) of this general permit that has been violated;
- (2) the date and time the violation(s) was first discovered and by whom;
- (3) the cause of the violation(s), if known;
- (4) if the violation(s) has ceased, the duration of the violation(s) and the exact date(s) and time(s) it was corrected;
- (5) if the violation(s) has not ceased, the anticipated date when it will be corrected;
- (6) steps taken and steps planned to prevent a reoccurrence of the violation(s) and the date(s) such steps were implemented or will be implemented;
- (7) the signatures and signed certification statements of the permittee and of the individual(s) responsible for actually preparing such report.

Section 5. General Conditions

(a) *Duty to Correct and Report Violations*

Upon learning of a violation of a condition of this general permit, a permittee shall immediately take all reasonable action to determine the cause of such violation, correct such violation and mitigate its results, prevent further such violation, and report in writing such violation and such corrective action to the commissioner within five (5) days of the permittee's learning of such violation, pursuant to Section 4(c) of this general permit. Such report shall be certified in accordance with Section 5(c) of this general permit.

(b) *Duty to Provide Information*

If the commissioner requests any information pertinent to the authorized activity or to determine compliance with this general permit, the permittee shall provide such information in writing within thirty (30) days of such request. Such information shall be certified in accordance with Section 5(c) of this general permit.

(c) *Certification of Documents*

Any document, including but not limited to any notice, which is submitted to the commissioner under this general permit shall be signed by, as applicable, the registrant or the permittee in accordance with section 22a-430-3(b)(2) of the Regulations of Connecticut State Agencies, and by the individual or individuals responsible for actually preparing such document, each of whom shall certify in writing as follows:

“I have personally examined and am familiar with the information submitted in this document and all attachments thereto, and I certify that, based on reasonable investigation, including my inquiry of those individuals responsible for obtaining the information, the submitted information is true, accurate and complete to the best of my knowledge and belief. I understand that a false statement made in the submitted information may be punishable as a criminal offense, in accordance with section 22a-6 of the General Statutes, pursuant to section 53a-157b of the General Statutes, and in accordance with any other applicable statute.”

(d) *False Statements*

Any false statement in any information submitted pursuant to this general permit may be punishable as a criminal offense, in accordance with section 22a-6 of the General Statutes, pursuant to section 53a-157b of the General Statutes, and in accordance with any other applicable statute.

(e) *Correction of Inaccuracies*

Within fifteen (15) days after the date a permittee becomes aware of a change in any of the information submitted pursuant to this general permit, becomes aware that any such information is inaccurate or misleading, or that any relevant information has been omitted, such permittee shall correct the inaccurate or misleading information or supply the omitted information in writing to the commissioner. Such information shall be certified in accordance with Section 5(c) of this general permit.

(f) *Other Applicable Law*

Nothing in this general permit shall relieve the permittee of the obligation to comply with any other applicable federal, state and local law, including the obligation to obtain any other lawfully required authorization to construct or maintain the authorized diversion.

(g) *Other Rights*

This general permit is subject to and does not derogate any present or future rights or powers of the State of Connecticut and conveys no rights in real or personal property

nor any exclusive privileges, and is subject to all public and private rights and to any federal, state, and local laws pertinent to the property or activity affected by such general permit. In conducting any activity authorized hereunder, the permittee may not cause pollution, impairment, or destruction of the air, water, or other natural resources of this state. The issuance of this general permit shall not create any presumption that this general permit should or will be renewed.

Section 6. Commissioner's Powers

(a) *Abatement of Violations*

The commissioner may take any action provided by law to abate a violation of this general permit, including the commencement of proceedings to collect penalties for such violation. The commissioner may, by summary proceedings or otherwise and for any reason provided by law, including violation of this general permit, revoke a permittee's authorization hereunder in accordance with sections 22a-3a-2 through 22a-3a-6 of the Regulations of Connecticut State Agencies. Nothing herein shall be construed to affect any remedy available to the commissioner by law.

(b) *General Permit Revocation, Suspension, or Modification*

The commissioner may, for any reason provided by law, by summary proceedings or otherwise, revoke or suspend this general permit or modify it to establish any appropriate conditions, schedules of compliance, or other provisions which may be necessary to protect human health or the environment.

(c) *Filing of an Individual Permit Application*

If the commissioner notifies a permittee in writing that such permittee must obtain an individual permit in order to continue lawfully conducting the activity authorized by this general permit, the permittee may continue conducting such activity only by filing an application for an individual permit within sixty (60) days of receiving the commissioner's notice. While such application is pending before the commissioner, the permittee shall comply with the terms and conditions of this general permit. Nothing herein shall affect the commissioner's power to revoke a permittee's authorization under this general permit at any time.

Issued Date: _____

/s/ Michael Sullivan

Michael Sullivan
Deputy Commissioner